

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 527

Case No. 84-3

(PUD Text - Minimum Area Requirements)

April 13, 1987

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on May 5, 8 & 15, 1986. At those hearing sessions, the Zoning Commission considered proposed amendments to the Planned Unit Development provisions of the District of Columbia Municipal Regulations (DCMR) Title 11, Zoning, pursuant to Section 102 of that title. The public hearing was conducted in accordance with the provisions of Section 3021 of that title.

On September 12, 1983, at the public hearing on Z.C. Case No. 82-13C (Brookings Inst. - PUD), a member of the Zoning Commission requested counsel for the applicant to submit a memorandum to the Commission concerning the operation of the one-stage and two-stage PUD.

On March 12, 1984 at its regular monthly meeting, the Zoning Commission discussed a memorandum dated September 30, 1983 from the law firm of Linowes and Blocher regarding "One-Step v. Two-Step Planned Unit Development Process", and a report dated March 6, 1984 from the Office of Planning (OP) regarding the PUD process.

At several subsequent meetings, the Zoning Commission further discussed reports dated March 30, 1984 and March 11, and July 2, 1985 from the OP, and letters from various persons regarding issues associated with the PUD process.

On July 8, 1985, the Commission determined that there was sufficient merit to consider a comprehensive review of the PUD provisions of the Zoning Regulations, and authorized the scheduling of a public hearing.

On March 21, 1986, the Zoning Commission published a proposal to amend the text of the Zoning Regulations in the form of a notice of public hearing in the D.C. Register (33 DCR 1769). That proposal included substantive changes to the PUD preamble and purpose statements, the area requirement provisions and the development guideline provisions, and the creation of evaluation standards. One

of the major features of the proposed evaluation standards include the explicit authority of the Zoning Commission to consider off-site amenities.

The District of Columbia Office of Planning (OP), by memorandum dated April 28, 1986 and by testimony presented at the public hearing, generally supported the proposal, as advertised in the notice of public hearing.

At the public hearing, the Zoning Commission heard testimony from many persons who represented the interests of government, developers, citizens, and others. The testimony was full and covered a broad scope of related issues and recommended modifications to the proposal.

Upon the conclusion of the hearing, the Zoning Commission left the record in the case open until October 17, 1986 so that, in part, it could allow various persons an opportunity to file additional material into the record of the case. The Commission subsequently scheduled a series of special meeting dates to consider the case for decision.

On December 15, 1986 and prior to the convening of those special meetings, the Commission received an application (Z.C. Case No. 86-31) from a developer requesting an amendment to the PUD area requirement provisions of the Zoning Regulations. That application also requested the Commission to adopt the proposed amendments on an emergency basis and to expedite the processing of Z.C. Case No. 86-31.

On January 12, 1987 at its regular monthly meeting, the Zoning Commission deferred action on Z.C. Case No. 86-31 until it began its deliberations in the subject case; that is Z.C. Case No. 84-3. The Commission determined, however, that it would expedite its deliberation of the area requirement issue in Z.C. Case No. 84-3.

On February 2, 1987 at a special meeting, the Zoning Commission discussed the issue of area requirements and took proposed action to amend the PUD area requirement provisions of the Zoning Regulations. The Commission determined that it would proceed with the processing of the area requirement component of the case now and would proceed with the balance of the case at a later time. The Commission subsequently dismissed Z.C. Case No. 86-31.

The Zoning Commission believes that upon considering all of the concerns relative to the issue of area requirements, which include recommended retention of the existing regulations, the adoption of more restrictive regulations, and the adoption of less restrictive regulations, its actions strike a reasonable and appropriate balance. The reduced area requirement together with the waiver provision will provide a reasonable measure of flexibility in the consideration of PUD cases.

A notice of proposed rulemaking was published in the District of Columbia Register on February 27, 1987 (34 DCR 1441). As a result of the publication of that notice, the Commission received comments from the law firm of Wilkes, Artis, Hedrick and Lane, by letter dated March 27, 1987.

On April 13, 1987 at its regular monthly meeting, the Zoning Commission considered these comments. In two respects, the comments essentially recommended that the Commission provide more flexibility in the standards for a waiver. The Commission is satisfied that excessive flexibility is not a virtue, and has the potential that invite PUD applications which are frivolous. The comments also recommended two technical clarifications in proposed 11 DCMR 2401.2 (c). The Commission is persuaded that clarification would be appropriate, and the final rules have been revised to clarify that paragraph. At that meeting, the Commission also decided to delete two proposed provisions, that is, section 2401.2 (a), and a portion of section 2401.2 (b), which did not correctly reflect the Commission's intention.

The Commission further believes that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for the National Capital.

The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated February 25, 1987 (case exhibit no. 124), found that implementation of the proposed amendments to the Zoning Regulations would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

The Commission has determined that the changes from the text of the proposed rulemaking do not substantially alter the intent, meaning, or operation of the rule as proposed.

In consideration of the reasons set forth herein, the Zoning Commission hereby orders APPROVAL of the following amendments to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning:

Revise existing Sub-sections 2401.1 and 2401.2 to read as follows:

- 2401.1 The minimum area included within the proposed development, including the area of public streets or alleys proposed to be closed, shall be as follows:

- (a) A total of two acres for a development to be located in an R-1, R-2, R-3, R-4, or R-5-A zone district;
- (b) A total of one acre for a development to be located in an R-5-B zone district; or
- (c) A total of fifteen thousand (15,000) square feet for a development to be located in any other zone district.

2401.2 The Zoning Commission may waive not more than fifty percent (50%) of the minimum area requirement of this section if the following conditions are met:

- (a) The Commission shall find after public hearing that the development is of exceptional merit and in the best interest of the city or country; and
- (b)
 - (1) If the development is to be located outside the Central Employment Area, at least eighty (80%) percent of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto; or
 - (2) If the development is to be located in a portion of the Central Employment Area which is in an HR zone district, the development shall contain a minimum floor area ratio of 2.0 devoted to hotel or apartment house use.


Vote of the Zoning Commission taken at the special public meeting on February 2, 1987: 5-0 (Patricia N. Mathews, John G. Parsons, George M. White, Lindsley Williams, and Maybelle T. Bennett, to approve).

This order was adopted by the Zoning Commission at the public meeting on April 13, 1987 by a vote of 5-0 (Patricia N. Mathews, George M. White, John G. Parsons, and Lindsley Williams to approve, and Maybelle T. Bennett to approve by absentee vote).

In accordance with the provisions of Section 3028 of the Zoning Regulations, this order is final and effective upon publication in the D.C. Register, that is on 01 MAY 1987



LINDSLEY WILLIAMS
Chairman
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
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